

Combined Declaration and Power of Attorney for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled, **Distribution of Data Transfer Load When Transmitting Layer-3 Datagrams on a Layer-2 Network**, the specification of which is attached hereto unless the following entry is checked:

— was filed on _____;
as United States Application Number or PCT International Application Number _____
was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s) Priority Claimed

(Application No.) (Country) (Day/Month/Year Filed) Yes No

(Application No.) (Country) (Day/Month/Year Filed) Yes No

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

(Application No.) (Filing Date)

(Application No.) (Filing Date)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56 that became available between the filing date of the prior application and the national or PCT International filing date of this application.

(Application No.) (Filing Date) (Status - patented, pending, abandoned)

(Application No.) (Filing Date) (Status - patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First inventor: Sudhakar SHENOY	
First inventor's signature 	Date Oct, 9th, 2001
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Citizenship: India	
Post Office Address: Same as above	
Full name of joint inventor: Amit S. PHADNIS	
Joint inventor's signature 	Date Oct 9th, 2001
Residence: D-606, Pride Apartments, Bannerghatta Road, Billekhalli Village, Bangalore, India - 560 076	
Citizenship: India	
Post Office Address: Same as above	

37 § C.F.R. 1.56 Duty to Disclose Information Material to Patentability

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teaching of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office; Which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of a claim remaining under

consideration in the application. There is no duty to submit information which is not material to the patentability of an existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner described by sections 1.97(b)-(d) and 1.98. However no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applications to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individual associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when is it not cumulative to information already of record of being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of un patentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the application takes in:
 - (i) opposing an argument of un patentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of un patentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term of the claim its broadest reasonable construction consistent with the specification, and before any considerations given to evidence which may be submitted in an attempt to establish a contrary conclusion of a patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or procures the application; and
- (3) Every other person who is substantively involved in the preparation of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (4) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.

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